

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN) CAUSE NO. 02D01-0408-PL-346

STATE OF INDIANA,
 Plaintiff,

v.

WINIFRED J. POWELSON, also known as
JANE POWELSON, also known as
JANE STAUFFER, also known as
WINNIE MAY,
individually and doing business as,
VICTORIAN MANOR CAVALIERS, and
PRIMROSE MANOR CAVALIERS,
 Defendant,

v.

LYNN WARD and CHRISTINE COOK,
 Intervenors.

ORDER OR JUDGMENT OF THE COURT

**JUDGMENT AGAINST THE DEFENDANT, WINIFRED J. POWELSON,
ONLY**

This matter came to be tried before the Court on the Complaint of the Plaintiff, State of Indiana, against the Defendant, Winifred J. Powelson. The Plaintiff appears by counsel, Terry Tolliver and Mary Ann WehmueLLer, the Intervenors appear in person and by counsel, Paul Helmke, and the Defendant fails to appear. The cause was submitted to the Court, witnesses were sworn, and evidence was heard.

The Court, being duly advised in the premises after considering the testimony of the witnesses and the exhibits introduced into evidence finds in favor of the Plaintiff on its Complaint.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED

Judgment is **ENTERED** in favor of the Plaintiff, State of Indiana, and against the Defendant, Winifred J. Powelson.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, pursuant to Indiana Code § 24-5-0.5-4(c)(1), the Defendant, Winifred J. Powelson, is permanently enjoined from engaging in the following:

a. representing expressly or by implication the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have, which the Defendant knows or reasonably should know it does not have;

b. representing expressly or by implication the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not, and the Defendant knows or reasonably should know it is not;

c. representing expressly or by implication the Defendant has sponsorship, approval, or affiliation in a consumer transaction the Defendant does not have, and which the Defendant knows or reasonably should know the Defendant does not have, including but not limited to representing the dogs and/or puppies she sells are AKC-registered, when the puppies are not, and/or representing she is authorized to register puppies with the AKC, when she is not authorized to do so;

d. representing expressly or by implication the consumer transaction involves or does not involve a warranty, a disclaimer of

warranties, or other rights, remedies, or obligations, if the representation is false, including but not limited to representations regarding refunds or that the puppies come with health guarantees that either do not exist, or that the Defendant does not intend to honor;

e. representing expressly or by implication the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know she can not, including but not limited to representations regarding the delivery of puppies, health guarantees, AKC registration papers and/or other documents; and

f. representing expressly or by implication a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendant, when the Defendant does not intend to sell it as such.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered for the Plaintiff, State of Indiana, against the Defendant, Winifred J. Powelson, as follows:

a. The Defendant shall make payment of money unlawfully received from consumers, pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the amount of Thirty-One Thousand Three Hundred and Twenty-Six Dollars and Ten Cents (\$31,326.10), payable to the Office of the Attorney General for pro rata distribution to aggrieved consumers, including the following:

- | | |
|---|-------------|
| 1. Lee Ann Baughman of San Francisco,
California | \$ 924.00 |
| 2. Shawn Cailteux and Jody Coyne of Gurnee,
Illinois | \$ 1,500.00 |

3. Christine Cook and Lynn Ward of Mogadore, Ohio	\$ 5,166.10
4. Laurie Clark-Moon of Highland, Indiana	\$ 1,600.00
5. Jason Wright of Cary, Illinois	\$ 1,500.00
6. Bill Boggess of Milford, Ohio	\$ 1,500.00
7. John and Rebecca Laver of Swanton, Ohio	\$ 1,800.00
8. Robert and Barbara Sautter of Swanton, Ohio	\$ 1,800.00
9. John Cooke of Grand Junction, Colorado	\$ 1,788.00
10. Peter Kaiser of Columbus, Indiana	\$ 1,000.00
11. Katie Lawrence of El Monte, California	\$ 2,379.00
12. Lewis Appleby of Roachdale, Indiana	\$ 3,500.00
13. Greg Beattie and Victoria Crebbin of Lafayette, California	\$ 300.00
14. Edward Fritz of Mesa, Arizona	\$ 1,944.00
15. Helen Ferrier of Tamms, Illinois	\$ 1,800.00
16. Beverly Voss of Sarasota, Florida	\$ 1,925.00
17. Beverly Jane Corbin of Connersville, Indiana	\$ 900.00
Total:	\$31,326.10

b. Several of the consumers identified above may have previously obtained judgments against the Defendant. To the extent those judgments obtained by these consumers constitute consumer restitution related to the claims alleged by the State of Indiana in its Complaint against the Defendant, any payments made toward the satisfaction of the outstanding judgments in those cases shall result in an equal credit being applied to the judgment entered in this cause, until the judgment amount is fully satisfied. The Defendant shall not be required to reimburse the consumers for their losses twice and entry of this Judgment shall in no way preclude any judgment creditors listed above from pursuing all legal remedies in collecting their respective judgments.

c. The Defendant shall pay the Office of the Attorney General its costs in investigating and prosecuting this action, pursuant to Ind. Code § 24-5-0.5-4(c)(3), in the amount of Nine Thousand Nine Hundred Eighty-One Dollars and Thirty-One Cents (\$9,981.31);

d. The Defendant shall pay civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00), payable to the State of Indiana;

e. The Defendant shall pay civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00), payable to the State of Indiana;

f. **A total monetary judgment in the amount of Fifty-Eight Thousand Three Hundred Seven Dollars and Forty-One Cents (\$58,307.41) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Winifred J. Powelson; and**

g. The previously attached Professional Federal Credit Union account, account number 147168348, with a current balance of Twelve Thousand Five Hundred Twenty-Two Dollars (\$12,522.00), as of May 2, 2005, shall be distributed as follows: Nine Thousand One Hundred Sixty-Seven Dollars and Nine Cents (\$9,167.09), shall be released to the Office of the Attorney General as partial satisfaction of the monetary

provisions of this judgment. The Attorney General shall distribute the funds at his discretion, including the payment of consumer restitution for aggrieved consumers identified in this Judgment, in a manner consistent with the Court's prior orders. Three Thousand Three Hundred Fifty-Four Dollars and Ninety-One Cents (\$3,354.91), shall be released to the Intervenor's counsel, Paul Helmke.

ALL ORDERED, ADJUDGED AND DECREED on this 20th day of July 2005.


NANCY ESCHCOFF BOYER,
Judge, Allen Superior Court

NOTICE TO BE GIVEN BY:
 X COURT CLERK OTHER: _____

PROOF OF NOTICE UNDER TRIAL RULE 72(D)

A copy of the entry was served either by mail to the address of record, deposited in the attorney's distribution box, or personally distributed to the following persons:

Terry Tolliver
Mary Ann Wehmuller
Office of the Attorney General
302 W. Washington St., IGCS 5th Floor
Indianapolis, IN 46204

Winifred J. Powelson
302 Summit Street
Monroeville, IN 46773

Paul Helmke
Helmke, Beams, Boyer & Wagner
202 W. Berry Street, Suite 300
Fort Wayne, IN 46802-2216

DATE OF NOTICE: July 20, 2005

INITIALS OF PERSON WHO NOTIFIED PARTIES:
jfs COURT CLERK PARTY OTHER